

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**1:11cv166**

**SYNOVUS BANK,**

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)

**Plaintiff,**

)

)

**v.**

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**ORDER**

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**MPM INVESTMENT, L.L.C., et al.,**

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**Defendants**

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Pending before the Court is Defendants' Motion to Amend Answer to Complaint [# 31]. Defendants seek leave of Court to amend their Answer in order to add factual allegations and two fraud causes of actions based on these facts. Plaintiff consents to the amendment. The Court **GRANTS** Defendants' Motion to Amend Answer to Complaint [# 31].

**I. Analysis**

Federal Rule of Civil Procedure 15(a) provides that a party may amend its pleading after the expiration of the time periods specified in Rule 15(a)(1) "only with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2). Rule 15(a)(2) further provides that leave to amend shall be freely given "when justice so requires." Id. Absent a showing of undue delay, bad faith, futility, or prejudice to the opposing party, a court should grant a party leave to

amend. Foman v. Davis, 371 U.S. 178, 182, 83 S. Ct. 227 (1962); Equal Rights Center v. Niles Bolton Assocs., 602 F.3d 597. The proposed amendment to Defendants' Answer would not result in undue delay or prejudice to Plaintiff, and the amendment is not futile or made in bad faith. Accordingly, the Court **GRANTS** Defendants' Motion to Amend Answer to Complaint [# 31].

## **II. Conclusion**

The Court **GRANTS** Defendants' Motion to Amend Answer to Complaint [# 31]. Defendants shall file their Amended Answer by December 7, 2011. The Court **DENIES as moot** the Motion to Dismiss Counterclaims [# 11], Motion to Strike Answer [# 18], and Motion to Dismiss Third Party Claims [# 22]. Plaintiff shall have twenty (20) days from the filing of the Amended Answer to answer or otherwise respond to any counterclaims or third-party claims asserted. Finally, the Court **GRANTS** *nunc pro tunc* the Motion for Extension of Time [# 15].

Signed: November 22, 2011



Dennis L. Howell  
United States Magistrate Judge



